Proceeding: INQUIRY CONCERNING THE DEPLOYMENT OF ADVANCED TELECOMMU Record 1 of 1
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Before The

Federal Communications Commission

Washington, D.C. 20554

In the Matter of

Inquiry Concerning the Deployment of Advanced Telecommunications Capability To All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996	)))))))	CC Docket 98-146

COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

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SUMMARY

The Commission seeks comments on how to best promote the introduction of advanced telecommunications services. As a mid-size incumbent local exchange company, Cincinnati Bell Telephone Company believes that the most efficient means to do so is to eliminate as much regulation of such services as possible. The Telecommunications Act of 1996 has created a competitive environment in the local telecommunications industry. This has allowed new entrants to compete on an equal basis with the long established incumbent carriers and to reach every telephone subscriber either through the incumbent's facilities or through facilities the new entrant can construct and interconnect with the incumbent's network. For new, advanced telecommunications capabilities, this foundation for a competitive marketplace is sufficient. All competitors have the same opportunity to deploy advanced services using the existing building blocks. New entrants do not need to be given access to new advanced services deployed by incumbents as all participants are able to introduce such new services themselves and are starting from the same point. The marketplace will determine who succeeds, whether or not competitors are meeting customer expectations and demands, and the best prices considering value and service. Market forces must be allowed to work. Constant and continual regulation is neither necessary nor warranted. Artificial regulation of advanced telecommunications capabilities will slow deployment and place an extraordinary burden on small and mid-size companies who want to make available new technologies to their customers. The Commission ought to take a hands-off approach and allow the market to succeed on its own.

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COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

Cincinnati Bell Telephone Company ("CBT"), an independent, mid-size local exchange carrier, submits these Comments in response to the Federal Communications Commission's ("Commission") August 7, 1998, Notice of Inquiry ("NOI") in the above-captioned proceeding.

I. INTRODUCTION

The Commission has made enormous efforts to open the local exchange business to competition. The requirement that incumbent local exchange carriers ("ILECs") open up their networks to competitors has allowed numerous new entrant carriers ("NECs") to enter the business and obtain direct facilities-based access to any local customer. This process may have been necessary with respect to the existing telephone network in order to assure that all competitors had an opportunity to obtain access to all customers, with no one competitor being able to exclude any other from a particular market.

However, a different approach should be taken with respect to advanced telecommunications capabilities. To the extent that such services are provided by adding

technology to the public switched telephone network, access to the existing network is now assured and all competitors have the same ability to implement such added technology. To the extent advanced services are provided by investing in new types of infrastructure, the NECs and others have the same or even better opportunity to invest in and construct this new infrastructure. In its zeal to insure a competitive environment for new and advanced services, the Commission must not go beyond what is required to create market opportunities. Where incumbents do not have an unfair advantage in reaching these new markets, they must not be burdened by rules and regulations that create barriers to the deployment of new and advanced telecommunications capabilities.

The influence and control of free market forces must not be ignored, but rather should be relied upon as the most efficient means of facilitating the deployment of new technology. Where there is a real demand for a service the market, not regulation, will send the correct signals to competitors whether an investment in that market is likely to generate a return. In the new world of telecommunications competition, where most of the new players are global financial giants, the Commission should in particular consider the heavy burdens any new regulations will have on small and mid-size companies who want to invest in and offer new advanced telecommunications capabilities and compete in the same environment. The use of regulation to attempt to incent certain behavior invariably causes distortions in the market and causes resources to be invested other than in accordance with the true demands of the market. Subsequently, any change to that scheme of regulation can cause disruption to market expectations. Therefore, the Commission ought to limit its efforts to regulate advanced telecommunications services and to gear any efforts towards encouraging normal market forces to shape the future.

II. DEFINITIONS

In paragraph 13, the Commission seeks comment on the definition of "advanced telecommunications capability" as used in § 706(c)(1) of the 1996 Act. In paragraph 14, the Commission seeks comment on how the terms "broadband" and "high-speed," which are components of the statutory definition of "advanced telecommunications capability," should be defined. Typically, in the telecommunications industry, "broadband" as a term is generally used to describe transport, switching or other signal handling functionality that exceeds a certain minimum transmission speed. CBT's understanding is that the common industry usage of "broadband" applies to transmission speeds in excess of 45 megabits per second, or, rates exceeding those provided by either a 44.8 megabit per second DS3 transmission medium or the equivalent payload carried on a SONET OC-1 (STS-1 operating at 51.84 Mb/s).

The term "high-speed," on the other hand, does not necessarily have a standard industry usage. Telecommunications companies often define 'high-speed" to mean any telecommunication service with a rate higher than, for example, 64 kilobits per second. Equipment vendors, however, frequently use the word 'high-speed' to refer to circuit cards, which frequently operate at speeds higher than an OC-3 (broadband) rate. Equipment cards with lower speeds are said to be "low-speed" cards. It may be advisable, considering the lack of common industry usage of the term to, indeed, abandon usage of it in favor of more precise language that speaks directly to the bandwidth or bandwidth range in question.

CBT believes that Congress did not intend an overly technical definition of the term "advanced telecommunications capability" but used the term generally to denote services that make more demanding use of telecommunications networks than traditional

voice grade services. Usage of the terms "broadband" and "high-speed" connotes the ability to transmit a substantially larger volume of information, whether data, video or some other form, than is capable with traditional voice grade service. As the definition specifically states that it is "without regard to any transmission media or technology," the term should not be limited to new forms of infrastructure and should include both the use of higher speed capabilities over existing network facilities and the introduction of new facilities that are not currently in place. As an example, new technologies such as xDSL allow high-speed data transmission over traditional copper wires that heretofore was not possible. The existing copper wires themselves would not be an "advanced" capability, but the xDSL equipment that stretched the potential of that copper wire certainly would be. The Commission should liberally interpret the definition of "advanced telecommunications capability" so as to broadly promote the creative introduction of a wide variety of new services, by reducing the amount of regulation that any company might face to launch a new product and to increase the influence of economic market forces on product introduction as opposed to regulatory influences on what products are made available.

The Commission, in paragraph 16, seeks comment as to whether advanced telecommunications capability includes content (e.g. web pages). Content, as understood in the industry, could include written content, data files, video images, streaming video and audio or, simply, voice. There is no precedent in the industry which would define content as part of the telecommunications service. Advanced telecommunications services, like other telecommunications services represent the physical equipment and media over which content is transmitted, not the content itself. To expand the scope of

advanced telecommunications capability to include content could create dangerous precedent with vast First Amendment implications. Telecommunications carriers traditionally have provided only the means for their customers to send telecommunications messages to others. To include content in the scope of advanced telecommunications capability would contradict the very definition of "telecommunications" as set forth in the 1996 Act: "The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." The Commission should not include content as part of advanced telecommunications capabilities. Rather, the ability to reach content should be the focus.

III. DEPLOYMENT PLANS.

In seeking to understand the nature of the current and future deployment of advanced telecommunications capabilities in the industry, the Commission requests information regarding the deployment plans of the incumbent LECs of xDSL services (paragraphs 22 and 26). Though much of the specific information requested would be considered market proprietary and competitively sensitive, Cincinnati Bell Telephone believes that its network is generally of sufficient quality, that deployment of xDSL type services would be commercially viable and would fit within CBT's strategic plans. If CBT deploys xDSL service, it would expect to make the service available in many of its wire centers, including those serving suburban and rural areas where technically and economically feasible. The Commission also seeks comments on the extent to which DLC, bridged taps and load coils exist in present networks and might interfere with deployment of xDSL service. Certainly those features exist in CBT's network and in most existing telephone networks to some extent. In the vast majority of cases, however,

CBT expects that xDSL can be successfully deployed. In those where it cannot, changes or improvements to the network would need to be made to allow the service to work.

The fact that DLC (digital loop carrier) interferes with the ability to deploy xDSL services places a regulatory handicap upon ILECs. In implementing the unbundling requirements of the 1996 Act, most states have adopted some form of TELRIC-based pricing methodology that requires the local loop to be priced assuming that it is provisioned with the most efficient forward-looking technology available. In most cases, this means an assumption that the feeder portion of the local loop would be provisioned with DLC technology, even where copper plant is in actual use. Because of the difference between the cost of building plant and the prices that ILECs can charge under TELRIC pricing schemes, regulation will drive ILECs towards increased usage of DLC technology in the local loop. However, for xDSL services to be widely deployed, the ILEC must either continue to rely upon copper feeder plant or maintain parallel feeder on copper and fiber. To properly incent ILECs to maintain loop plant capable of carrying xDSL signals, i.e. 100% copper loops, ILECs must be allowed to recover the cost of such plant in their unbundled loop prices. Otherwise, TELRIC-type unbundled loop pricing theories may have the effect of diminishing the availability of copper plant at the same time that new technology is increasing the demand for the same. This sort of direct tension between regulatory mandates and market incentives creates severe disadvantages to ILECs that NECs do not face. The Commission should consider providing ILECs with relief from this problem to incent them to provision xDSL service.

The Commission makes the statement in paragraph 23 that "[m]uch of the incumbent LEC's fiber is not now in use." CBT assumes that the Commission intends

that the statement be taken as an axiom. However, CBT questions its validity. Within its operating area, most of CBT's fiber is in use and is almost fully used within certain key corridors. Jobs which are scheduled to increase capacity or provide the capability to deploy advanced telecommunications services are scheduled to meet near term demand.

Similarly, in paragraph 29, the Commission states: "Competitive LECs generally possess no market power . . ." This is clearly not the case. Any company that, through regulatory fiat, has the freedom to purchase and then resell services at prices lower than a competitor has market power. CBT has observed that the CLECs actively operating in its area not only have access to CBT's network for resale, but are financed by corporate structures that dwarf CBT. If CLECs will be allowed to resell advanced telecommunications services provided by ILECs at a discount (as they are allowed to resell existing services), the incentives for ILECs to invest in new services is greatly diminished. CLECs would have the same or greater incentive, and far greater resources, to invest in advanced services than ILECs if the easy option of piggybacking on the ILEC were not available.

IXCs also are not likely, as evidenced by previous behavior, to deploy their own facilities to end user customers. The Commission, in paragraph 34, seeks comment as to the likelihood of IXC deployment of advanced telecommunications capability "especially to serve the mass market." CBT has seen no evidence that interexchange carriers intend to provide their own last mile facilities to any market, particularly the mass (residential) market. On the contrary, network requests that have come to CBT from IXCs have been of such a nature that underscores IXC strategies to use only the existing infrastructure provided by current telecommunications providers.

The Commission, in paragraph 38, asks whether it should take action to preclude the possibility of bundling the advanced telecommunication service to the LEC's affiliated ISP. From CBT's perspective, such regulation is unnecessary. CBT believes that the market itself will make such LEC policies non-sustainable. Rightfully, the Commission wants to ensure that end user customers are free to choose their Internet service provider, especially where the incumbent LEC is the only provider of advanced telecommunications capability. It is, therefore, CBT's intention, if it deploys xDSL service, to make it capable of being provisioned to the end user customer's preferred ISP so long as that ISP has made arrangements to connect to CBT's xDSL network.

IV. DEMAND FOR ADVANCED TELECOMMUNICATIONS CAPABILITIES

The Commission is justified in its concern that deployment of advanced telecommunications capabilities be made in a timely manner consistent with the growth of the market-based services which demand these capabilities. From a market perspective, investment in these new capabilities will be made only to the extent that the capabilities address or create a market demand and can be deployed in a manner that remains profitable to the service provider.

From a market demand perspective, in paragraph 60, the Commission asks whether "the explosive growth of the Internet indicate an immediate demand for Internet access at higher speeds than are now standard, and for other forms of advanced services"? CBT can respond with a resounding "YES." The market push for more electronic information in more forms (text, sound. image, video) in shorter time frames has literally driven the computer equipment industry to push the limits of innovation and drive the maximum amount of capacity through the current circuit switched network.

Four years ago, a 9600-baud transmission rate was deemed fast but not fast enough. The industry responded with 28.8 modems and later with K56Flex modems. From a network services perspective, residence end user customers turned to relatively expensive ISDN services in their thirst for more bandwidth, while small businesses, who never had needs for high capacity services for voice, started buying DS1 services for direct connections to their ISPs.

Customers have long demanded faster and cheaper network connections in an ever-increasing demand for bandwidth. The time is more than ripe for the deployment of advanced telecommunications services and solutions using emerging technologies. America Online has announced that it is upgrading its entire 700,000 dial-up modem network and has entered trials with GTE Internetworking for ADSL service. At least one Internet provider locally is already providing a home grown version of high speed Internet service featuring ADSL as the transmission platform.

The demand for the deployment of advanced telecommunications services and the explosive growth of the Internet are inextricably coupled. The former will only serve to fuel the latter. In paragraph 61, the Commission seems concerned that this growth, apparently from a market perspective, may occur slowly ("Does it appear that the deployment of advanced telecommunications capability and the growth of advanced services will occur slowly in the early years, as was the case with cable television and cellular service?"). CBT is of the opinion that the growth of these services has paralleled the historical growth trend of cable and cellular service which was characterized by slow growth for a period of years until critical mass was reached, then the growth curve slanted dramatically upward. In this case, critical mass has already been reached for

Internet service and the demand for advanced telecommunications services that it drives is ready to explode. Kevin Kelly, executive editor for Wired magazine summed up this phenomenon:

> During its first 10 years, Microsoft's profits were negligible. Its profits rose above the background noise only around 1985. But once they began to rise, they exploded. Federal Express experienced a similar trajectory: years of miniscule profit increases, slowly ramping up to an invisible threshold, and then surging skyward in a blast sometime during the early 1980s. The penetration of fax machines likewise follows a tale of a 20-year overnight success. Two decades of marginal success, then, during the mid-1980s, the number of fax machines quietly crosses the point of no return – and the next thing you know, they are irreversibly everywhere. The archetypical illustration of a success explosion in a Network Economy is the Internet itself. As any old-time nethead will be quick to lecture you, the Internet was a lonely (but thrilling!) cultural backwater for two decades before it hit the media radar. A graph of the number of Internet hosts worldwide, starting in the 1960s, hardly creeps above the bottom line. Then, around 1991, the global tally of hosts suddenly mushrooms, exponentially arcing up to take over the world.

New Rules for the New Economy, WIRED (September 1997).

The Commission expresses concern about consumers' willingness to pay for advanced telecommunications services. In paragraph 63, the Commission correctly notes that "if there is not enough demand at prices that will enable them to make a competitive profit, then there would be no economic incentive for them to enter the market." The key here is that the overall profitability of the service must be such that it is economically viable for a provider to take the risk to invest and deploy, understanding that, once deployed, the physical provider assumes all of the risk for making the service profitable. The Commission expresses a desire to ascertain data on customer willingness to pay, but this information is of limited value unless it is coupled with realistic cost data to deploy. America Online, on its web site, anticipates an xDSL plus AOL price which includes access to the Internet at $50. It is assumed that the connection speed will be somewhere

between 256 Kb/s and 768 Kb/sec. While this is a relatively good gauge of consumer willingness to pay, the other component needed is the cost per subscriber to deploy. If the cost to deploy and the customer willingness to pay are too close for comfort, then providers will not be incented to deploy the service. Also, providers who would otherwise be incented to deploy the service as a retail offering may lose that incentive if forced to resell or unbundle the service to others, thus driving service revenue toward cost.

V. BARRIERS TO THE DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS CAPABILITIES

In paragraphs 66 and 67 of the NOI, the Commission asks if any regulations have created barriers and slowed deployment of advanced telecommunications capabilities. CBT believes that the August 7, 1998, Memorandum Opinion and Order, in the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket 98-147), creates a significant barrier to the deployment of advanced telecommunication capabilities. In particular, the ruling that section 251 of the Telecommunications Act of 1996 applies to advanced telecommunications capabilities eliminates the incentive to implement new advanced capabilities.

All market participants, including CBT and other ILECs, need an economic incentive to invest in the deployment of advanced telecommunications services. If ILECs cannot reasonably expect to recover their investments in the new technology and a reasonable profit from the revenues they earn by providing new services to their customers, they will not be optimally incented to deploy advanced technologies. Applying the unbundling and resale rules of § 251 to LECs with respect to advanced telecommunications capabilities discourages them from making these investments. By

allowing competitors a free ride on the ILECs' investments, without risk (and at a discount in the case of resale), the rules also discourage competitors from investing in their own competing offerings of advanced telecommunications capabilities. Given the choice of investing millions (or billions) of dollars in new facilities versus taking advantage of the investments of others presents an easy choice for non-ILECs.

For example, consider ADSL service. Freeing ADSL service from unbundling and resale obligations will not harm competitors. ADSL service involves the addition of electronic equipment on both ends of the local loop and the routing of traffic at the central office end of the loop to a separate packet switched network. Competitors who use unbundled loops will have the same opportunity to install ADSL electronics on the existing local loop as any ILEC. The local loop is and will remain available as an unbundled element. Competitors have the ability to collocate in ILECs' central offices, physically or virtually, allowing access to both ends of the local loop. There is no compelling reason why ILECs should have to unbundle the ADSL electronics, which are readily available in the marketplace, and for which the ILECs have no ability to restrict their availability.

The Commission should embrace the mandate of Section 706[1] and any means available under Section 706, especially forbearance from resale and unbundling regulations, to encourage the deployment of advanced communications capabilities for all

[1] 1996 Telecommunications Act, Section 706(a): In General – The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools, and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance,

Americans. Mid-size companies, like CBT, do not have the resources of the RBOCs, cable companies or large IXCs, like AT&T, MCI and WorldCom. Financial resources of mid-size companies are limited and resale and unbundling requirements, together with their associated regulatory and administrative costs, can quickly tilt the scales in favor of delaying investment.

VI. COMPETITIVE MARKET FORCES

In paragraphs 69, 70, 77, 78, 80 and 81, the Commission seeks comment on what types of regulations or regulatory models it should adopt in order to promote the deployment of advanced telecommunications services. CBT would encourage the Commission not to adopt any regulatory model, but to allow the free market to determine how market participants will choose to invest. In paragraph 5 of the NOI, the Commission announced an intention to rely as much as possible on free markets and private enterprise to deploy advanced services. CBT completely supports this objective. The Commission must allow the competitive telecommunications marketplace which it has developed to work without unnecessary interference. The Commission cannot continually develop and issue regulations every time technology, capabilities, and services change or are introduced. The consumers, through a free marketplace, will determine which capabilities and services are deemed necessary and useful and the prices that they deem fair.

The Commission's tentative conclusion regarding the best approach for promoting advanced telecommunications capability was expressed in paragraph 85 of the NOI as follows:

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measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.

> [T]here is a large number of potential suppliers and, from all that appears, a large demand. These circumstances would normally make us predict a well performing marketplace. This Commission is determined that this will occur – that technology will be allowed to flourish, that bottlenecks will be made accessible (or, better, multiplied out of existence), and that regulation will speed, not slow, progress.

In the case of ADSL, with the opening of the local loop, there are no bottlenecks and, as explained above, no need for additional regulation. Regulations, such as those proposed in CC Docket 98-147, artificially impair the ability of a company to earn an economic return on its investment and artificially cause the competitors not to invest in similar facilities. New regulations distort and control the development of the marketplace and hamper its natural working order. The free market is a better innovator than any regulation. The Commission should be patient and give the unencumbered marketplace a chance to work.

Finally, consumers and competitors always have the protections afforded by the legal process, the same as other competitive businesses not subject to direct government regulation. In competitive markets, the Commission should look to the enforcement process as the preferred method of regulation rather than burdensome prospective regulation. The Commission should begin to trust the market and no longer restrict, deter or delay innovation and investment through outdated or inappropriate regulatory methods.

VII. COMPETITION DOES NOT REQUIRE REGULATION

In paragraph 1 of CC Docket 98-147, the Commission states that "Congress provided the blueprint in the 1996 Act for ensuring that all markets are open to competition ....". The focus of this statement was existing circuit switched voice

services. Section 251 of the 1996 Act made this objective possible through the requirements of interconnection, unbundling, and resale. Having developed this facilities-based mode of entry that allows new entrants direct access to every subscriber in the nation to conduct business at the same level as ILECs, the Commission does not need continually to impose new regulations on ILECs each time a new capability or technology is introduced.

Since the 1996 Act has created competition in the telecommunications market, new entrants can compete in other areas besides circuit switched voice services on an equal basis with the ILECs. Normally, competition would mean that CLECs would make investments in their own facilities and equipment, just as the incumbent carriers will do, thus offering the public a far larger range and choice of capabilities and services.

Even before the MO&O was issued, there was evidence on the record that competition was flourishing. The Association for Local Telecommunications Services ("ALTS") in its Petition for Declaratory Ruling indicated that CLECs were already deploying advanced telecommunications networks extensively to fill a market need. In fact, that petition contended that the CLECs were far ahead of the ILECs in deployment of the new technologies.[2] If deployment of advanced telecommunications capabilities by

[2] Petition of the Association for Local Telecommunications Services ("ALTS") for a Declaratory Ruling, filed May 27, 1998. The summary of the ALTS Petition states: "CLECs were the first to deploy fiber ring networks, and have been leaders in the introduction of new technologies such as asynchronous transfer mode, frame relay, synchronous optical network and digital subscriber line into the national telecommunications infrastructure, and continue to deploy such advanced technologies at a dramatic pace." "CLECs have led the way in bringing advanced services to the public." "LECs are investing billions of dollars in such technology –prompted by a need to compete with CLECs that have been developing digital networks for years."

CLECs is already occurring without new regulations, then it should be apparent that any further regulations will only create new barriers and slow deployment of new offerings.

VIII. SMALL AND MID-SIZE COMPANY CONSIDERATIONS

In two of its recent Biennial Review proceedings, the Commission has proposed changes to accounting, cost allocation, and ARMIS regulations for mid-size companies.[3] CBT, among other filing parties, applauded the Commission's action, which recognized that the burden of regulation is significantly different for small and mid-size companies as compared to the larger companies. The Commission needs to recognize that additional regulation of advanced telecommunications capabilities will also be a great burden for small and mid-size companies.

In the NOI, the Commission is interested in the timely deployment of advanced telecommunications services, in creating incentives for ILECs to participate, and in providing such services to rural customers. In order for the ILECs to offer advanced telecommunications capabilities, such as ADSL, they have to unbundle their networks and resell their retail services at a discount as ordered in CC Docket 98-147. This approach negates the incentive to offer new capabilities and services. It does not make economic sense for a company to build a brand new data network and assume all of the associated costs and investment risks of doing so if the company would be required to make that network available to its competitors at only its forward looking costs or to sell

[3] CC Docket No. 98-81, In the Matter of 1998 Biennial Regulatory Review – Review of Accounting and Cost Allocation Requirements, released June 17, 1998; CC Docket No. 98-117, In the Matter of 1998 Biennial Regulatory Review – Review of ARMIS Reporting Requirements, released July 17, 1998.

the retail services to them at a discount. For a new investment to be rational, the firm should expect to be able to recover its investment plus a reasonable return.

In light of this, the Commission has proposed an alternative for ILECs.[4] They can create a separate subsidiary, which would have to meet seven proposed regulatory criteria, in order to offer advanced telecommunications capabilities free from ILEC regulatory obligations. Unfortunately, the Commission has not recognized the tremendous burden this would place on small and mid-size LECs who want to offer advanced telecommunications services to their customers. Establishing a new and completely separate subsidiary is extremely expensive and defeats any economies of scale or efficiencies the smaller companies may have as a result of centralized operations. It requires the duplication of systems, training, personnel, etc. The planning, implementation and start up phases for a new subsidiary can take many months, not including any state certifications that might be required. The proposed separate subsidiary rule does not allow for any sharing of resources. Establishing a separate subsidiary not only provides no incentives to small and mid-size companies, it penalizes them.

In CBT's case, it may be precluded by state regulation from establishing a separate subsidiary to offer advanced telecommunications services within its current operating territory. The Ohio Commission's Local Competition Guidelines, for example, established in Case No. 95-845-TP-COI, Entry on Rehearing, dated February 20, 1997, state in Section II.A.4:

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[4] CC Docket No. 98-147, In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, released August 7, 1998, Notice of Proposed Rulemaking, ¶ 83.

Incumbent local exchange carriers cannot establish new entrant carrier affiliates within their current serving area in order to offer basic local exchange service. A separate ILEC-affiliated NEC may be established to compete in other ILEC serving areas.

Most small and mid-size companies serve rural customers. The over-regulation of advanced telecommunications capabilities would provide no incentive and would only slow the deployment of new technologies to rural and less densely populated areas. In CBT's experience, CLECs are only deploying network facilities and offering services to a limited number and type of customers. These customers are primarily lucrative businesses that are geographically concentrated in areas which maximize the opportunity for revenue generation while minimizing expense. CLECs, through their own network deployment and purchase of resold services and unbundled network elements, have been observed to attempt to pick only the low hanging fruit in the marketplace. A free marketplace will allow small and mid-size companies to offer new capabilities with competitive prices to all of their customers.

IX. CONCLUSION

The Commission has established a competitive marketplace and made it possible for new entrants to operate alongside long-established local exchange carriers. Every carrier can reach every end user using the local loop, or can deploy their own last-mile facilities to reach the customers independently. Given this foundation, the Commission needs to let the marketplace work for new advanced telecommunications capabilities. There are already signs that this is indeed occurring. Allowing the marketplace to work, free of regulation, will provide incentives to all companies; it will ensure timely deployment; and it will help ensure new capability and service offerings to all customers.

No regulations for advanced telecommunications capabilities are required. To the contrary, the Commission should use its forbearance and alternative regulation powers to exclude advanced telecommunications services from regulation so that they will develop free of regulatory distortion and in accordance with sound economic principles.

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